

FILED IN CLERK'S OFFICE
U.S.D.C. - Atlanta

JAN 4 2011

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JAMES N. HATTEN, Clerk
By:  Deputy Clerk

UNITED STATES OF AMERICA,

v.

DOMINIC GITTENS,

Defendant.

CRIMINAL ACTION
NO.: 1:10-CR-439-JEC-LTW

REPORT AND RECOMMENDATION CONCERNING PLEA OF GUILTY¹

The Defendant, by consent, has appeared before me and has entered a plea of guilty to Counts One and Four of the Indictment. After cautioning and examining the Defendant under oath concerning each of the subjects mentioned in Rule 11, I have determined that the guilty plea was knowing and voluntary, and the plea to the offense charged is supported by an independent basis in fact establishing each of the essential elements of such offense. I have also determined that the Defendant has voluntarily and expressly waived the right to appeal his conviction and sentence and the right to collaterally attack his conviction and sentence in any post-conviction proceeding (including, but not limited to, motions filed pursuant to 18 U.S.C. § 2255) on any ground, except that the Defendant may file a direct appeal of an upward departure or variance from the applicable sentencing guideline range. If the Government initiates a direct appeal of the sentence imposed, the Defendant may file a cross-appeal of that

¹Failure to file written objections to this Report and Recommendation within **FOURTEEN (14) DAYS** after service of a copy of this Report and Recommendation shall bar an aggrieved party from attacking such report and recommendation before the assigned United States District Judge. 28 U.S.C. § 636(b)(1)(B).

same sentence. I, therefore, **RECOMMEND** that the plea of guilty be accepted and that the Defendant be adjudged guilty and have sentence imposed accordingly.

SO ORDERED this 4th day of January, 2011.

s/Linda T. Walker
LINDA T. WALKER
UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA

v.

DOMINIC GITTENS,

Defendant.

:
:
:
:
:
:
:

CRIMINAL ACTION
NO.: 1:10-CR-439-JEC-LTW

ORDER FOR SERVICE OF REPORT AND RECOMMENDATION

Attached is the report and recommendation of the United States Magistrate Judge made in this action in accordance with 28 U.S.C. § 636 and this Court's Local Rule 72.1C. Let the same be filed and a copy, together with a copy of this Order, be served upon counsel for the parties.

Pursuant to 28 U.S.C. § 636(b)(1), within fourteen (14) days after service of this order, each party may file written objections, if any, to the Report and Recommendation. Pursuant to Title 18, United States Code, Section 3161(h)(1)(F), **the above-referenced fourteen (14) days allowed for objections is EXCLUDED from the computation of time under the Speedy Trial Act.**

Should objections be filed, they shall specify with particularity the alleged error or errors made (including reference by page number to the transcript if applicable) and shall be served upon the opposing party. The party filing objections will be responsible for obtaining and filing the transcript of any evidentiary hearing for review by the district court. If no objections are filed, the report and recommendation may be adopted as the opinion and order of the district court and any appellate review of factual findings

will be limited to a plain error review. United States v. Slay, 714 F.2d 1093 (11th Cir. 1983), cert. denied, 464 U.S. 1050, 104 S.Ct. 729, 79 L.Ed.2d 189 (1984).

The Clerk is directed to submit the report and recommendation with objections, if any, to the District Court after expiration of the above time period.

SO ORDERED, this 4th day of January, 2011.

s/Linda T. Walker
LINDA T. WALKER
UNITED STATES MAGISTRATE JUDGE